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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,584	08/03/2000	Masaki Seike	32857	9239

116 7590 12/11/2003
PEARNE & GORDON LLP
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EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT	PAPER NUMBER
2686	7

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/630,584

Applicant(s)

Seike et al.

Examiner

Rafael Perez-Gutierrez

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 11, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-7, 10, 16, 18, and 20 is/are allowed.
- 6) ☒ Claim(s) 1, 8, 9, 11-15, 17, and 19 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2686

DETAILED ACTION

1. This Action is in response to Applicant's response filed on September 11, 2003. **Claims 1-20** are now pending in the present application. **This action is made FINAL.**

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

Art Unit: 2686

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1, 8, 9, 11-15, 17, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Selby (U.S. Patent # 4,876,738)** in view of **Wells et al. (U.S. Patent # 6,009,497)**, as applied in the previous Office Action.

Consider **claims 1, 11-13, 17, and 19**, Selby clearly shows and discloses a mobile communication terminal M1-M3, i (figures 1 and 2 and column 5 line 30 - column 6 line 66) comprising:

a receiver 2 for receiving a wireless communication signal (figure 2);
a transmitter 1 for transmitting a wireless communication signal (figure 2);
an information managing portion 3 (figure 2 and column 10 lines 15-32); and
a storage medium managed by the information managing portion 3 and having a plurality of memory areas (e.g., first and second areas) each for storing a value of an information item that is regularly accessed (figure 2 and column 7 line 12 - column 8 line 67), wherein said information managing portion 3 stores one value of the information item in one memory area at a first time and further wherein said information managing portion 3 subsequently stores an updated value of the information item in a different memory area at a second time later than the

Art Unit: 2686

first time such that the one value and the updated value are both concurrently stored in the storage medium for some period (figure 2 and column 7 line 12 - column 10 line 63); and

optionally storing additional values of the information item, each stored in an additional memory area included in the plurality of memory areas at other times after the second time (column 7 line 21 - column 10 line 64);

further wherein said information managing portion 3 provides the second (or latest) value which is an updated (most recent) value to the mobile communications terminal M1-M3, i when a current value of the information item is requested by the mobile communications terminal M1-M3, i (column 7 lines 21-55).

However, Selby does not specifically disclose that the storage medium is a nonvolatile memory.

Wells et al. teach a flash EEPROM memory array used for controlling processes run on a microprocessor used to control the operations of a long term memory such as the memory 14 (figure 1) which includes moving an update process stored in the EEPROM memory to a random access memory associated with the microprocessor; and then using the update process for erasing the contents of the EEPROM memory, and furnishing data to the microprocessor on a sector by sector basis from a host computer through an interface used by the microprocessor (figure 1 and 2, column 3 line 5 - column 4 line 64, and column 5 line 3 - column 6 line 65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the method of updating flash memory taught by Wells et al. to

Art Unit: 2686

the mobile radio system of Selby in order to provide a wireless communication system capable of reducing time required for updating the positional-record, time information and area information.

Consider **claims 8 and 15**, and **as applied to claims 1 and 12 above**, Selby also discloses that the value of information stored may be time information (column 4 lines 21-37).

Consider **claims 9 and 14**, and **as applied to claims 1 and 12 above**, Selby, as modified by Wells et al., fails to mention the number of batteries present within his communications device. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made that a mobile communications device would only have one battery, as size and weight are major design factors in any mobile communications device. The implementation of only one battery would have made Selby's communications device similar to other similar single-battery communications devices available for use at the time of the invention.

Allowable Subject Matter

4. **Claims 3-7, 10, 16, 18 and 20** are allowed.
5. **Claim 2** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2686

Response to Arguments

6. Applicant's arguments filed on September 11, 2003 have been fully considered but they are not persuasive.

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wells et al. clearly provide a motivation for the combination in column 3 line 57 - column 4 line 7 where it is disclosed that new information (updated value) and old information (value) are stored simultaneously in the EEPROM which allows for the reduction of the number of erasure operations in the EEPROM.

In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Art Unit: 2686

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to

Crystal Park II
2021 Crystal Drive
Arlington, VA 22202
Sixth Floor (Receptionist)

Art Unit: 2686

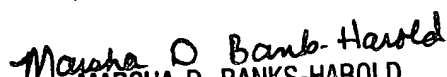
9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.


Rafael Perez-Gutierrez
R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER

December 8, 2003


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